

### **REMARKS**

This communication is filed concurrently with a Request for Continued Examination and is in response to the final office Action mailed on February 22, 2010 rejecting claims 1-20.

With this response, claims 18 and 20 have been cancelled; claim 21 is newly presented; and claims 1, 4, 9, 12, and 19 are amended.

Claims 1-17, 19, and 21 remain pending in the application for consideration by the Examiner.

#### **Claim Rejections under 35 U.S.C. § 112**

Claims 1-20 were rejected under 35 U.S.C. § 112 on the basis that independent claims 1 and 12 provided a new limitation requiring a flexible protection element to be "fixed in place relative to the leg holes." With this response, independent claims 1 and 12 have been amended to remove the language that formed the basis for the rejections of claims 1-20.

Based on this, it is respectfully requested that the rejections to claims 1-20 under 35 U.S.C. § 112 be withdrawn.

#### **Claim Rejections under 35 U.S.C. §§ 102 and 103**

Claims 1-5, seven, and 9-20 were rejected under 35 U.S.C. § 102 as anticipated by Stevenson, US patent number 6,964,065 ("Stevenson").

The examiner interprets Stevenson to provide a pair of underpants having a front part 2, a back part 6, a crotch part 12, two leg holes 8 and 10, and a releasable connection 20 having two parts 14 and 22 that connect the crotch part 12 to the front part 2.

Stevenson clearly illustrates in Figure 1C that the parts 14 and 22 of the releasable connection 20 are attached to the crotch part 12 and not the front part 2. Stevenson illustrates the releasable connection 20 (described by Stevenson as area 20) in Figure 2B. The parts 14 and 22 are separate from the area 20 as illustrated in Figures 1C and 2B and as provided by Stevenson at column 5, lines 7-31.

With this response, independent claim 1 has been amended to require one of the two parts of the releasable connection connected to the front part of the underpants and extending from one leg hole to the other and including a flexible protection element attached to an end of the one part

of the releasable connection that is connected to the front part of the underpants so that the flexible protection element extends from an edge portion of at least one of the leg holes and is so configured to wrap over and at least partly cover the edge portion of the at least one of the leg holes when the releasable connection in the closed condition.

The cited references fail to teach or suggest one part of the releasable connection connected to the front part of the underpants and extending from one leg hole to the other **and including a flexible protection element attached to an end of the one part of the releasable connection that is connected to the front part of the underpants so that the flexible protection element extends from an edge portion of at least one of the leg holes**, as required by amended independent claim 1.

The applicant's representative does not acquiesce to the assertion that Stevenson provides a releasable connection 20 with two parts 14 and 22 as interpreted by the examiner. However, to the extent that Stevenson is interpreted to provide a releasable connection 20 having two parts 14 and 22, these two parts are not connected to the front part of the underpants **and including a flexible protection element attached to an end of the one part of the releasable connection that is connected to the front part of the underpants so that the flexible protection element extends from an edge portion of at least one of the leg holes**, as required by amended independent claim 1.

Thus, it is believed that amended independent claim 1 recites patentable subject matter that is not anticipated or rendered obvious by Stevenson.

Claims 6 and 8 were rejected under 35 U.S.C. § 103 as obvious over Stevenson. However, it is now believed that amended independent claim 1 is nonobvious such that claims 6 and 8, which depend from claim 1, must also be nonobvious.

With this response, independent claim 12 has been amended to require a first flexible protection element extending from a first end of said releasable connection and a second flexible protection element extending from a second end of said releasable connection, the first and second flexible protection elements foldable to an inside of the underpants and separately foldable to an outside of the underpants, and when folded adapted to wrap around and at least partly cover the edge portion of at least one of the leg holes to thereby increase comfort for a wearer of the underpants.

As noted above, the applicant's representative does not acquiesce to the assertion that Stevenson provides a releasable connection 20 with two parts 14 and 22 as interpreted by the examiner. However, to the extent that Stevenson is interpreted to provide a releasable connection 20 having two parts 14 and 22, these two parts are not flexible protection elements that are foldable to an inside of the underpants and separately foldable to an outside of the underpants, and when folded adapted to wrap around and at least partly cover the edge portion of at least one of the leg holes to thereby increase comfort for a wearer of the underpants, as required by amended independent claim 12.

Thus, it is believed that amended independent claim 12 recites patentable subject matter that is not anticipated or rendered obvious by Stevenson.

Newly presented claim 21 further defines patently distinct amended independent claim 12 and requires that one of the two parts of the releasable connection is connected to the front part of the underpants and extends from one leg hole to the other, **with the first and second flexible protection elements each extending from an opposed end of the one part of the releasable connection that is connected to the front part of the underpants** so that each of the flexible protection elements extend from an edge portion of one of the leg holes and is so configured to wrap over and at least partly cover the edge portion of the leg hole when the releasable connection is in the closed condition.

It is respectfully requested that the rejections to claims 1-20 be withdrawn.

### CONCLUSION

Applicant respectfully asserts that pending claims 1-17, 19, and 21 recite patentable subject matter and are in condition for allowance. Thus, a Notice of Allowance is respectfully requested.

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The Examiner is invited to telephone the undersigned if issues remain outstanding.

No additional fees are believed due at this time. However, the office is authorized to charge any fees actually due and credit any overpayment to deposit account 50-4439.

Respectfully submitted,  
Ehmsen

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